

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6551**

**BILL NUMBER:** HB 1159

**NOTE PREPARED:** Mar 19, 2013

**BILL AMENDED:** Mar 19, 2013

**SUBJECT:** Liability for Use of School Facilities.

**FIRST AUTHOR:** Rep. Huston

**FIRST SPONSOR:** Sen. Pete Miller

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

*Limited Liability:* The bill limits the liability of a public school or an accredited nonpublic school that provides community use physical fitness activities to the general public.

*Tort Claims Immunity:* The bill specifies that the tort claims act applies to charter schools, and provides tort claims immunity to a public or charter school for a claim based on the adoption or enforcement of a policy, or on the failure to adopt or enforce a policy.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Limited Liability:* Under this bill, schools (public and accredited nonpublic schools) would not be held liable in certain situations involving the use of their physical fitness equipment or their facilities by the public. The board of school trustees, board of school commissioners, school board of an incorporated town and city, or township school trustees, as applicable, must approve the types of activities permitted on the school's equipment. There are two situations where a school would still be liable:

1. If it intentionally ignored a potential hazard with the equipment or failed to ensure that its personnel were properly trained in its use.

2. If it entered into a contract with a private entity for use of the equipment and failed to post the appropriate warning sign as stipulated by this bill.

There are currently no data available to indicate if this bill would influence the number of civil suits brought by individuals seeking compensation from schools for damages caused by the individual's use of the school's exercise equipment. The fiscal impact would depend on whether the school would have to incur costs such as attorney's fees in defending itself in civil suits and to pay damages if this provision were not implemented. This provision may also result in lower liability insurance cost for some schools; the amount of the decrease, if any, is indeterminable at this time.

(Revised) *Tort Claims Immunity*: Under current law, a public school employee acting within the scope of the employee's employment is not liable for damages in certain situations. This bill extends this same protection to employees of charter schools. The fiscal impact would depend on whether the charter school would have to incur costs such as attorney's fees in defending itself in civil suits and to pay damages if this provision were not implemented. In some cases, this may result in lower liability insurance for charter schools.

**Explanation of Local Revenues:** *Limited Liability*: Under the bill, the number of schools willing to permit the public to use their recreational facilities for a fee may increase. The amount of revenue to be earned from this initiative is indeterminable at this time.

**State Agencies Affected:**

**Local Agencies Affected:** Public schools; Accredited nonpublic schools; Charter schools; Boards of school trustees; Boards of school commissioners; School boards of incorporated towns and cities; Township school trustees.

**Information Sources:**

**Fiscal Analyst:** David Lusan, 317-232-9592.